

Subactivity: Enforcement and Observers / Training
Line Item: Enforcement

GOAL STATEMENT:

Provide a comprehensive program for the protection of the Nation's living marine resources through the enforcement of a variety of Federal laws and regulations. The primary objective of the NOAA Enforcement Program is to assure compliance with the laws and regulations promulgated to conserve and protect our Nation's living marine resources. Enforcement activities support the NOAA Ecosystems goal to "protect, restore, and manage the use of coastal and ocean resources through ecosystem approach to management."

BASE DESCRIPTION:

NOAA Enforcement Program services involve three primary capabilities: investigations, monitoring (which includes conducting patrols, and inspections), and outreach and education. NOAA special agents and officers detect, deter, investigate, and document for prosecution any violations of Federal laws and regulations under the Magnuson-Stevens Fishery Conservation and Management Act, Marine Mammal Protection Act, Endangered Species Act, Lacey Act, and other Federal statutes and international agreements relating to living marine resources. Some of the current monitoring capabilities of the NOAA Enforcement Program include the management of the vessel monitoring system program (VMS), which significantly increases the ability to monitor and enforce closed areas for protection of endangered species, critical habitat, and rebuilding and maintenance of sustainable fisheries.

The Cooperative Enforcement Program expands the enforcement resources available to address this mission through joint cooperative enforcement agreements (JEA's) with marine resource enforcement agencies of coastal states and U.S. territories. NOAA's Office of Law Enforcement holds joint enforcement agreements (JEA's) with 21 coastal states and four U.S. territories. This program provides land-based patrols, near-shore vessel patrols, and some offshore vessel patrols. While the Office for Law Enforcement is currently authorized to employ 157 Special Agents and 20 Enforcement Officers assigned to 53 offices in the coastal United States and U.S. territories, the Cooperative Enforcement Program makes available more than 2,000 state and territorial enforcement personnel to support NOAA's Enforcement Program. The work performed by the state and territorial agencies under these agreements not only augments the Federal enforcement effort, but also supports enforcement missions of U.S. states and territories.

PROPOSED LEGISLATION:

NOAA, together with the Administration, will work with Congress to reauthorize the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson Act), P.L. 104-297; the Marine Mammal Protection Act (MMPA), P.L. 103-238; and the Endangered Species Act (ESA), P.L. 100-478.

SUMMARIZED FINANCIAL DATA

(Dollars in thousands)

Subactivity: Enforcement and Observers / Training	FY 2005 ACTUALS	FY 2006 CURRENTLY AVAILABLE	FY 2007 BASE PROGRAM	FY 2007 ESTIMATE	INCREASE / DECREASE
Line Item: Enforcement					
TOTAL	45,824	49,500	49,922	53,901	3,979
FTE	191	188	188	188	-

Note: The dollars in this table represent budget authority.

PROGRAM CHANGES FOR FY 2007:

Enforcement (+0 FTE and \$3,979,000): NOAA requests an increase of \$2,268,000 for Enforcement and Surveillance and a \$1,711,000 increase for Cooperative Agreements with States for a total Enforcement request of \$53,901,000. The increase in Enforcement and Surveillance will support the need of NOAA's increased Management and Stewardship role addressing investigations and monitoring capabilities within the Northeast Shelf and Gulf of Mexico large marine ecosystems (LMEs). The additional funds for the Cooperative Agreements with states will provide the necessary support and capacity for the states to carry out their enforcement activities in full coordination with NOAA.

Statement of Need

The Enforcement and Surveillance increase is needed to provide for the cost of labor (additional enforcement and support staff) and required support infrastructure (equipment, communications costs, travel, etc) required to fill currently authorized but vacant positions to address current and new regulations expected in FY 2007. NOAA and the Fishery Management Councils decisions to expand regulations to protect NOAA's trust resources require additional support in the form of enforcement services. Current plans in the Northeast Region (Northeast Shelf LME) and Southeast Region (Gulf of Mexico LME) call for new regulations to control fishing effort. Specifically, an Individual Fishing Quota (IFQ) program is under development in the Gulf of Mexico Red Snapper Fishery. It is expected to be implemented during FY 07 and to affect up to 2,500 vessels. In the Northeast Shelf LME, a planned VMS requirement in the open access fishery may affect up to 2,000 vessels. The result of these new regulations in both LME's will be an increase in VMS monitoring and dockside inspections resulting in an increase of monitoring and investigative workload. The increase of funds will allow for the filling of vacant positions, increasing the capacity for investigations, monitoring and enforcement support activity.

The requested increase of \$1,711,000 in Cooperative Agreements with states will allow the expansion of the program to address additional monitoring requirements of current and expected regulations. The advent of the Red Snapper IFQs in the Gulf of Mexico during FY 07 will increase the need for enforcement monitoring which can be enhanced by State enforcement partners.

Proposed Action

Enforcement and Surveillance

Approximately ten currently authorized investigative and enforcement support positions will be filled to partially assume the increased workload created by anticipated regulations for General Access Scallop, Recreational Fisheries, Red Snapper IFQ, South Atlantic Snapper/Grouper, Gulf Shrimp, and HMS Species. By adding dedicated analysts to support enforcement operations, investigative effectiveness will improve because investigators and enforcement officers will be freed from most investigative analysis and their resources will be better focus on the most egregious cases. The expanded investigative and analytical capacity is expected to increase efficiencies within NOAA's homeland security program while supporting the Department of Homeland Security (DHS) efforts and the homeland security and commercial fishing regulation activities of the U.S. Coast Guard.

Cooperative Agreements with States

Agreements will be proposed with Gulf States to assume direct responsibilities related to the Red Snapper IFQ enforcement program. Other programs will be expanded based on regional priorities.

Benefits

The requested increase in the Enforcement and Surveillance base will allow NMFS Enforcement Program to address the increased workload of the new regulations in the Northeast Region (Northeast Shelf LME) and Southeast Region (Gulf of Mexico LME). At the same time the efficiency, effectiveness, and capacity of the Investigations Capability and the Monitoring Capability will be improved.

The requested increase in the Cooperative Enforcement program with states will provide essential enforcement services to address the Red Snapper IFQ and expand other State and U.S. Territorial enforcement support services based on regional priorities.

Performance Goals and Measurement Data

This increase will support the objective “Enhance the conservation and management of coastal and marine resources to meet America’s economic, social, and environmental needs” under the Department of Commerce strategic goal to “Observe, protect, and manage the Earth’s resources to promote environmental needs.” It also supports the NOAA Goal to “Protect, restore, and manage the use of coastal and ocean resources through an ecosystem approach to management.”

Performance Goal: <i>Ecosystem</i>						
Performance Measure: <i>Increase the Number of Overfished Major Stocks and Number of protected species designated as threatened, endangered or depleted with stable or increasing population levels.</i>	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Lower Level Measure: Increase enforcement capacities to investigate violations, number of investigations conducted.						
Without Increase	2824	3110	3110	3110	3110	3110
With Increase	2824	N/A	3310	3310	3310	3310

TERMINATIONS FOR FY 2007: None.

Subactivity: Enforcement and Observers / Training
Line Item: Observers & Training

GOAL STATEMENT:

Collect accurate and high-quality data on standardized fisheries, protected species, and environmental parameters from commercial and recreational fishing vessels to better assess impacts of fishing activities and regulations on living marine resources and fishing communities in order to support the National Oceanic and Atmospheric Administration (NOAA) Strategic Plan goal to “protect, restore, and manage the use of coastal and ocean resources through an ecosystem approach to management.”.

BASE DESCRIPTION:

Since 1972, NOAA’s National Marine Fisheries Service (NMFS) has deployed fishery observers to collect catch and bycatch data from U.S. commercial fishing and processing vessels. Observers have monitored fishing activities on all U.S. coasts, collecting data for a range of conservation and management issues. Observers are fishery biologists deployed at-sea onboard commercial fishing vessels to collect data and information on fishery catch and bycatch (i.e. the incidental capture of unintended fish species and protected species). This includes information on fishing practices, vessel and gear characteristics, fishing locations and times, environmental conditions on the fishing grounds, compliance with fishing regulations, and, for some fisheries, socioeconomic data. Observers also collect biological samples, and may assist in fish tagging and tag recovery, or special data collections for stock assessment programs.

Nearly 40 fisheries are monitored by observer programs each year, and the data they collect are often the best means to gather current information on fisheries status. Without these programs, many fisheries would lack sufficient data for effective management. The authority to place observers on commercial fishing and processing vessels operating in particular fisheries is provided either by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) or the Marine Mammal Protection Act (MMPA).

Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act)

The Magnuson-Stevens Act authorizes the placement of observers to collect information needed for fishery management and conservation. In addition, the Act requires that all fishery management plans establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery. Fishery observers are one of the most reliable methods for reporting bycatch and are a critical component of the reporting methodologies required in several fisheries with known levels of bycatch.

- The information collected by fishery observers ensures that Fishery Management Plans are consistent with the requirement for a standardized bycatch reporting methodology. Observer programs also provide data for fishery managers to ensure that national standards for fishery conservation and management identified in Section 301 of the Magnuson-Stevens Act are met.

- National Standard 1: “Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.”
- National Standard 2: “Conservation and management measures shall be based upon the best scientific information possible.”
- National Standard 9: “Conservation and management measures shall, to the extent practicable, (a) minimize bycatch and (b) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.”

Marine Mammal Protection Act (MMPA)

MMPA Section 118 governs the incidental taking of marine mammals in the course of commercial fishing operations. It states that the immediate goal shall be to reduce the incidental mortality or serious injury of marine mammals to insignificant levels approaching mortality and serious injury rates of zero. To achieve that goal, Section 118(d) directs NMFS to deploy observers on fishing vessels or remote vessels to monitor incidental mortality and serious injury of marine mammals during commercial fishing operations.

Section 118 describes the duties of observers, establishes guidelines for the distribution of observers among fisheries and among vessels within a fishery, and establishes priorities for the placement of observers. Observers are mandatory for fishermen participating in Category I and II fisheries (fisheries that have frequent or occasional incidental mortalities or serious injuries of marine mammals, respectively), and are voluntary for fishermen participating in Category III fisheries (fisheries that have a remote likelihood or no known incidental mortality or serious injury of marine mammals). Section 118 also directs NMFS to develop and implement take reduction plans for marine mammal stocks that interact with Category I or II fisheries. These plans shall include an estimate of marine mammals incidentally killed or seriously injured each year during the course of commercial fishing operations. Onboard fisheries observers are the most reliable source of this information.

Endangered Species Act (ESA)

ESA requires the Federal Government to protect and conserve species and populations that are endangered or threatened with extinction. Federal or State actions that may impact endangered species, such as permitted fishing operations, must be minimized. Endangered species taken as bycatch in fishing operations include sea turtles, Pacific salmon, seabirds, and marine mammals. Observers monitor impacts and certify that takes of endangered species do not exceed the authorized incidental take limit. Observer data are also used to prepare recovery plans, and for marine species these plans generally include a requirement to reduce incidental capture of protected species in commercial fishing operations. Fisheries may be restricted or terminated if they impose mortality rates on protected species that impede the recovery of the listed population.

NMFS implements observer programs in each of its six regions. In addition, improvements in data collection, observer training, and the integration of observer data with other research are coordinated by the Office of Science and Technology in NMFS headquarters. Collectively, the regional programs and the headquarters office comprise the National Observer Program, which supports observer programs and increases their contribution to NMFS overall goals.

PROPOSED LEGISLATION:

NOAA, together with the Administration, will work with Congress to reauthorize the Magnuson-Stevens Fishery Conservation and Management Act, P.L. 104-297, and the Marine Mammal Protection Act, P.L. 103-238.

SUMMARIZED FINANCIAL DATA

(Dollars in thousands)

Subactivity: Enforcement and Observers / Training	FY 2005 ACTUALS	FY 2006 CURRENTLY AVAILABLE	FY 2007 BASE PROGRAM	FY 2007 ESTIMATE	INCREASE / DECREASE
Line Item: Observers & Training					
TOTAL	24,523	23,175	23,302	26,796	3,494
FTE	70	61	61	63	2

Note: The dollars in this table represent budget authority.

PROGRAM CHANGES FOR FY 2007:

Observers / Training (+ 2 FTE and \$3,494,000): NMFS requests 2 FTE and a net increase of \$3,494,000 for a total request of \$26,796,000 to expand observer coverage in the Gulf of Mexico; initiate observer coverage in priority fisheries nationwide; and support 35,000 observer collection days in the North Pacific. Fisheries observers are trained professionals who monitor and record catch data from U.S. commercial fishing vessels and processing facilities. Fisheries observers provide the most reliable and unbiased source of catch, bycatch, and discard data in over 40 of the nation's fisheries. In addition, observers collect critical information on threatened and protected species, including marine mammals, sea birds, and sea turtles.

Statement of Need

NMFS' stock assessments depend on observer data to refine catch rate estimates of finfish by geographic area and season. Without observers and observer programs, NMFS would have insufficient data to effectively manage many of the nation's economically valuable fisheries. Additional research is needed to better quantify bycatch of red snapper and other species with respect to season, depth, and location. To achieve this goal, an expansion of the observer program coupled with an improved logbook program is needed.

NMFS' improvement and expansion of observer programs for many of the fisheries with significant bycatch supports one of the priorities set forth in the President's U.S. Ocean Action Plan—the implementation of a new national bycatch strategy. The Magnuson-Stevens Fishery Conservation and Management Act (MSA) and the Endangered Species Act (ESA) require NMFS to standardize reporting methodologies that minimize bycatch in federally managed fisheries and to protect specific endangered or threatened marine plants and animals.

South Atlantic / Gulf Shrimp Observers

The shrimp trawl fishery is one of the nation's most economically valuable fisheries. In 2004, Gulf region landings were the nation's largest with 256.9 million pounds valued at \$376,181,426. However, the shrimp trawl fishery has one of the highest bycatch rates for sea turtles. Six out of the seven species of turtles—loggerhead, leatherback, green, hawksbill, Kemp's ridley, and olive ridley—are found in U.S. waters and are protected under the ESA and MSA. Observers assist in sea turtle recovery efforts by evaluating the effectiveness of turtle excluder devices (TED), bycatch reduction devices that restrict a turtle's accidental entry into a shrimp otter trawl.

National Observer Program

A total of 84 fisheries were identified as requiring observer coverage in the NMFS report *Evaluating Bycatch: A National Approach to Standardized Bycatch Monitoring Programs* (2004). NMFS has initiated observer programs in 42 fisheries—16 of which are considered to be pilot sampling programs. Current funding levels are insufficient to provide adequate observer coverage for all priority fisheries, and observer programs are non-existent in many of these fisheries. Additional funding is required to provide adequate observer coverage in order to monitor bycatch levels in these fisheries and provide information for stock assessment and management purposes.

North Pacific Marine Resource Observers and North Pacific Groundfish Observer Programs

In an average year, observers complete 35,000 data collection days aboard vessels and at processing plants in North Pacific fisheries. Coverage is mandatory for certain fisheries. To meet coverage requirements, industry participants must contract directly with permitted observer providers. Industry costs for obtaining mandatory coverage exceed \$13,000,000 annually. NMFS is responsible for training and briefing the observers, providing safety and sampling equipment, and monitoring all data quality control and management functions. The program maintains offices in Dutch Harbor and Kodiak, Alaska, to provide field assistance to observers. Information from the observer program is essential for in-season management of groundfish fisheries, as this activity is based on near real-time observer reports, and for monitoring compliance with fishing regulations. The data are critical for stock assessment and quota setting.

Proposed Actions

This investment will enhance NMFS' ability to conduct integrated assessments of stewardship decisions.

Of this request, \$1,000,000 will enhance NMFS' capability to monitor catch, bycatch, and discard rates of finfish species such as red snapper and protected species (e.g., sea turtles) in the Gulf of Mexico. Specific efforts include:

- *Expand Observer Coverage (\$600,000)* – This request will support increases in the number of days at sea (DAS) for observer coverage in the shrimp trawl fishery and initiation of observer programs in the red snapper and reef fish fisheries for a total of 833 DAS.
- *Observer Training (\$50,000)* – With this request, NMFS will recruit and train approximately five observers to supplement increases in target coverage levels for the shrimp trawl, red snapper, and reef fish fisheries.

- *Outreach and Education (\$50,000)* – The request will enable NMFS to conduct outreach activities that encourage fishermen in the Gulf of Mexico fisheries to participate in federal observer programs. Efforts include dissemination of flyers, establishing and strengthening port agent contacts with fishermen, and conducting safety inspections for vessels that berth observers.
- *Shrimp Fishery Bycatch Data (\$150,000)* – Expansion of observer coverage in the shrimp trawl fishery will enable NMFS to integrate the latest bycatch information with data sets from existing observer programs. The request will enhance NMFS’ ability to collect fishing effort information from electronic logbooks, which will increase the accuracy of bycatch estimates in existing impacted bycatch species stock assessments.
- *Red Snapper and Reef Fish Fishery Bycatch Data (\$150,000)* – NMFS is not able to integrate Catch Per Unit Effort data collected from paper logbooks in these fisheries. The request supports the integration of bycatch information and mortality estimates of undersized target species into stock assessments for the red snapper and reef fish fisheries.

Of this request, \$985,000 will support activities in the North Pacific. Specific efforts include:

- *Support Activities for the North Pacific* – This request will allow the Alaska Fisheries Science Center to conduct training and briefing for observers, provide observer safety and sampling equipment, and maintain data quality control and management functions that support the industry-funded North Pacific observer program. Because observer coverage is mandatory, NMFS must carry out these functions to ensure that required data are collected by industry-funded observers in the Alaskan groundfish fisheries. In addition, to support ongoing observer coverage requirements, NMFS will use funds to prepare observers and provide data necessary for maintaining several new management programs to be implemented in 2007.

Of this request, \$1,530,000 will support observer activities nationwide. Specific efforts include:

- *Expand Observer Coverage (\$1,500,000)* – NMFS will support implementation of observer coverage in eight fisheries at pilot sampling levels and expansion of observer coverage in fisheries currently at low observer coverage levels. If funded, this request will provide a total of 1,250 observed days at sea (DAS). The request also will support outreach to fishermen required to carry observers, training, data quality procedures, and data management activities.

Benefits

NMFS’ observer data will provide a comprehensive understanding of marine systems to meet the environmental, economic, and public safety needs of the nation.

South Atlantic / Gulf Shrimp Observers

The proposed increases in observer coverage in the shrimp trawl, red snapper, and reef fish fisheries will improve the estimation of bycatch for all three fisheries. The reef fish bottom long-line fishery is considered to have high bycatch vulnerability to fishes. However, current observer data sets have limited utility in adequately quantifying the amount of bycatch that occurs. The impacts of bycatch on fish stocks are included in traditional stock assessments whenever estimates of bycatch are available. For example, bycatch by the shrimp fishery has been included in red snapper stock assessments for many years. Incorporation of bycatch information from other fisheries in stock assessments is often less than adequate due to lack of time series estimates for bycatch. Enhanced observer coverage is an essential part of improving stock assessments in the Exclusive Economic Zone of the Southeastern United States.

North Pacific Marine Resource, North Pacific Groundfish, and National Observer Programs

The requested support for the North Pacific observer program will improve the estimation of bycatch and allow integration of bycatch data into stock assessments to improve the evaluation of stock status and development of management strategies. NMFS' request for observer coverage in priority fisheries nationwide will improve the estimation of bycatch and allow bycatch data to be integrated into stock assessments, thereby improving the evaluation of stock status and development of management strategies.

Performance Goals and Measurement Data

The Observers / Training Program supports the following performance measure.

This is a new measure for FY 2007.

Performance Goal: <i>Ecosystems</i> Performance Measure: <i>Increase the Fish Stock Sustainability Index (FSSI)</i>	FY2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Without Increase	500.5	510.5	512.5	514.5	516	530.5
With Increase	500.5	510.5	512.5	514.5	516	544

TERMINATIONS FOR FY 2007: None.